



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/665,169 Confirmation No. 6319  
Inventor : SNELL, Alan Kay  
Filed : September 18, 2003  
TC/AU : 3761  
Examiner : GIBSON, Keshia L.  
  
Docket No. : 1032.005  
Customer No. : 36790

June 28, 2005

Via U.S. Express Mail

Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.84(b)(2)  
REQUESTING ACCEPTANCE OF COLOR PHOTOGRAPHS**

Applicant files this petition and requests acceptance of color photographs. Applicant seeks to add the color photographs as additional figures through an Amendment under 37 CFR § 1.111 that is submitted concurrently herewith.

Applicant submits that acceptance of these color photographs is necessary in order to accurately reflect in the records of the U.S. Patent & Trademark Office ("USPTO") the true and exact disclosure of the present application as of the day that the present application was filed.

Furthermore, Applicant submits that accurate reflection in the records of the USPTO of the true and exact disclosure of the present application is necessary in order to support the invention that is claimed in dependent claim 76 newly presented in the current Amendment.

**Statement of Facts**

1. On February 26, 2003, Mr. Alan K. Snell mailed via U.S. Certified Mail a provisional patent application to the U.S. Patent & Trademark Office ("USPTO"). See DECLARATION OF ALAN K. SNELL ("SNELL DECL."), ¶ 1, attached hereto as **Exhibit A**.

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**Statements of Law**

11. The disclosure of the Provisional Application includes the subject matter disclosed in the Color Photographs, which forms a part of the Provisional Application.
12. The disclosure of the 169 Application includes the disclosure of the Provisional Application as a result of the incorporate by reference of the Provisional Application set forth in the 169 Application as filed.
13. The disclosure of the 169 Application includes the disclosure of the subject matter disclosed in the Color Photographs Provisional Application includes the subject matter disclosed in the four pages of the Color Photographs.
14. The records of the USPTO currently do not accurately reflect the full and complete disclosure of the 169 Application because the four pages of the Color Photographs as reflected in the records of the USPTO do not clearly show the subject matter disclosed in the four pages of the Color Photographs.
15. Only by acceptance of the Color Photographs in the present application can the true and exact disclosure of the 169 Application be accurately reflected in the records of the USPTO.
16. The subject matter disclosed in the Color Photographs is necessary in order for the 169 Application to support newly presented dependent claim 76.
17. Under the present facts, the Color Photographs are necessary as the only practical medium by which to disclose the subject matter sought to be patented in newly presented dependent claim 76 of the present utility patent application.

2. This provisional patent application was received by the USPTO on March 4, 2003, and received this date as the official filing date. The USPTO further assigned serial number 60/451,433 to this provisional application (hereinafter the "Provisional Application"). See USPTO Provisional Image File Wrapper ("Provisional IFW"), page 1, attached hereto as **Exhibit B**.
3. The Provisional Application as mailed by Mr. Snell contained four pages of color reproductions of sixteen color photographs (hereinafter the "Color Photographs"). SNELL DECL., ¶ 3.
4. A true and correct copy of the four pages containing the Color Photographs as mailed by Mr. Snell is found in **Exhibit 1** to the Declaration of Mr. Snell. See SNELL DECL., ¶ 4.
5. The four pages containing the Color Photographs were included in the count of the number of pages shown on the provisional cover sheet, which is identified as being a part of the application. See Provisional Image File Wrapper, pp. 15-18, attached hereto as **Exhibit B**.
6. The Color Photographs each were numbered as Photo #1 through Photo #16, and reference was made in the written description of the Provisional Application to individual photos of the Color Photographs. See Provisional IFW (**Ex. B**), pp. 5-6.
7. On September 18, 2003, the law firm of Thorpe North & Western LLP filed a nonprovisional patent application serial number 10/665,169 (the "169 Application"), the inventor of which is Alan K. Snell. See U.S. Appl. Publ. No. 2004/0176735 A1 (the "169 Publication"), Front Page, attached hereto as **Exhibit C**.
8. The 169 Application claims priority to the Provisional Application. 169 Publication (**Ex. C**), ¶ 0001, attached hereto as **Exhibit D**.
9. The 169 Application explicitly incorporates by reference the Provisional Application. 169 Publication (**Ex. D**), ¶ 0001.
10. An Office Action mailed by the USPTO indicates that the four pages of the Color Photographs as reflected in the records of the USPTO do not clearly show the subject matter disclosed in the four pages of the Color Photographs. See Office Action dated May 11, 2005, pp. 3-4, attached hereto as **Exhibit E**.

**Action Requested**

In view of the foregoing statement of facts and statements of law, Applicant respectfully requests that this petition be granted, whereby the Amendment adding the Color Photographs as new Figs. 12-15 may be entered without objection.

In accordance with 37 CFR §1.84, please find included herewith:

- (i) The fee set forth in 37 CFR § 1.17(h);
- (ii) Three (3) sets of the Color Photographs; and
- (iii) An Amendment adding both the Color Photographs as Figs. 12-15 to the present application and the required language found in Rule 84 as the first paragraph of the "Brief Description of the Drawings" section of the application.

Respectfully submitted,  
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